

Union Calendar No. 50

105TH CONGRESS
1ST Session

H. R. 478

[Report No. 105-75]

A BILL

To amend the Endangered Species Act of 1973 to improve the ability of individuals and local, State, and Federal agencies to comply with that Act in building, operating, maintaining, or repairing flood control projects, facilities, or structures.

APRIL 24, 1997

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 1997

Mr. HERGER (for himself and Mr. POMBO) introduced the following bill; which was referred to the Committee on Resources

APRIL 24, 1997

Additional sponsors: Mr. RADANOVICH, Mr. ROHRABACHER, Mr. DOOLITTLE, Mr. LEWIS of California, Mr. HOSTETTLER, Mr. YOUNG of Alaska, Mr. HULSHOF, Mr. NETHERCUTT, Mr. SMITH of Oregon, Mrs. EMERSON, Mrs. CHENOWETH, Mr. LARGENT, Mr. MCINTOSH, Mr. DELAY, Mr. HASTINGS of Washington, Mr. BONO, Mr. WICKER, Mr. KIM, Mr. GALLEGLY, Mr. CONDIT, Mr. SESSIONS, Mr. TAUZIN, and Mr. PACKARD

APRIL 24, 1997

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on January 21, 1997]

A BILL

To amend the Endangered Species Act of 1973 to improve the ability of individuals and local, State, and Federal

agencies to comply with that Act in building, operating, maintaining, or repairing flood control projects, facilities, or structures.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Flood Prevention and*
5 *Family Protection Act of 1997”.*

6 **SEC. 2. PURPOSE.**

7 *The purpose of this Act is to reduce the regulatory bur-*
8 *den on individuals and local, State, and Federal agencies*
9 *in complying with the Endangered Species Act of 1973 in*
10 *reconstructing, operating, maintaining, or repairing flood*
11 *control projects, facilities, or structures to address immi-*
12 *nent threats to public health or safety or catastrophic natu-*
13 *ral events or to comply with Federal, State, or local public*
14 *health or safety requirements.*

15 **SEC. 3. AMENDMENTS TO ENDANGERED SPECIES ACT OF**
16 **1973.**

17 *(a) ACTIONS EXEMPT FROM CONSULTATION AND CON-*
18 *FERENCING.—Section 7(a) of the Endangered Species Act*
19 *of 1973 (16 U.S.C. 1536(a)) is amended by adding at the*
20 *end the following new paragraph:*

21 *“(5) Consultation and conferencing under paragraphs*
22 *(2) and (4) is not required for any agency action that—*

1 “(A) consists of reconstructing, operating, main-
2 taining, or repairing a Federal or non-Federal flood
3 control project, facility, or structure—

4 “(i) to address a critical, imminent threat
5 to public health or safety;

6 “(ii) to address a catastrophic natural
7 event; or

8 “(iii) to comply with Federal, State, or
9 local public health or safety requirements; or

10 “(B) consists of maintenance, rehabilitation, re-
11 pair, or replacement of a Federal or non-Federal flood
12 control project, facility, or structure, including oper-
13 ation of a project or a facility in accordance with a
14 previously issued Federal license, permit, or other au-
15 thorization.”.

16 (b) *PERMITTING TAKINGS*.—Section 9(a) of such Act
17 (16 U.S.C. 1538(a)) is amended by adding at the end the
18 following new paragraph:

19 “(3) For purposes of this subsection, an activity of a
20 Federal or non-Federal person is not a taking of a species
21 if the activity—

22 “(A) consists of reconstructing, operating, main-
23 taining, or repairing a Federal or non-Federal flood
24 control project, facility, or structure—

1 “(i) to address a critical, imminent threat
2 to public health or safety;

3 “(ii) to address a catastrophic natural
4 event; or

5 “(iii) to comply with Federal, State, or
6 local public health or safety requirements; or

7 “(B) consists of maintenance, rehabilitation, re-
8 pair, or replacement of a Federal or non-Federal flood
9 control project, facility, or structure, including oper-
10 ation of a project or a facility in accordance with a
11 previously issued Federal license, permit, or other au-
12 thorization.”.

Amend the title so as to read: “A bill to amend the Endangered Species Act of 1973 to reduce the regulatory burden on individuals and local, State, and Federal agencies in complying with that Act in reconstructing, operating, maintaining, or repairing flood control projects, facilities, or structures.”.